



Federal Communications Commission
Washington, D.C. 20554

June 19, 2012

DA 12-965

Via Certified Mail, Return Receipt Requested

Kankakee Valley Broadcasting Company, Inc.
Attn: Sidney Marks
400 W. Culver Road
Knox, IN 46534

Re: Final Default Payment for Auction 62 Construction Permit FM389-A (Culver, IN)

DO NOT DISCARD THIS IMPORTANT NOTICE
OF A DEMAND FOR PAYMENT
OF A DEBT OWED THE UNITED STATES AND ORDER OF PAYMENT

Dear Mr. Marks:

This Order provides notice and demands payment of a debt owed to the United States based on the default of Kankakee Valley Broadcasting Company, Inc. ("Kankakee") on its final payment for a construction permit it won in Auction 62.

Kankakee was the winning bidder for FM broadcast construction permit FM389-A (Culver, IN) in Auction 62. After the close of Auction 62, Kankakee defaulted on its final payment obligation for this permit and failed to timely file its long-form application (FCC Form 301).¹ Thus, pursuant to the Commission's rules,² Kankakee owes a default payment, which is a debt owed to the United States.³

In 2006, Kankakee filed a Request for Waiver asking the Commission to waive the down payment and long-form application filing deadlines for the Culver permit.⁴ The Commission denied Kankakee's Request for Waiver and assessed Kankakee an interim default payment of \$10,620.00, from the monies it had on deposit.⁵ FM Broadcast permit FM389-A (Culver, IN) was offered in a subsequent auction of FM broadcast construction permits (Auction 93), and because it received a winning bid,⁶ the

¹ See Kankakee Valley Broadcasting Co., Inc., *Memorandum Opinion and Order*, 22 FCC Rcd 8591 (WTB 2007) ("Kankakee MO&O").

² 47 C.F.R. §§ 1.2104(g)(2), 1.2109(b).

³ 31 U.S.C. § 3701(b)(1).

⁴ See Request for Waiver of Kankakee Valley Broadcasting Co., Inc. (dated June 22, 2006) ("Request for Waiver"). Specifically, Kankakee sought a waiver of the requirement to make its down payment within the time period established by Section 1.2107(b), as well as a waiver of the application filing deadline prescribed by Section 73.5005(a). *Id.*

⁵ See Kankakee MO&O, 22 FCC Rcd at 8593 ¶ 5, 8598 ¶¶ 16-18. See also 47 C.F.R. §§ 1.2104(g)(2) and 1.2109(b).

⁶ See Auction of FM Broadcast Construction Permits Closes; Winning Bidders Announced for Auction 93, *Public Notice*, DA 12-600 (rel. April 17, 2012) ("Auction 93 Closing Public Notice").

Commission is now able to calculate Kankakee's final default payment obligation with respect to this construction permit.⁷

Under the Commission's rules, at the close of the auction, a winning bidder assumes a binding obligation to pay the full amount of its accepted winning bid.⁸ A bidder who defaults on that obligation or is disqualified is subject to a default payment.⁹ The default payment has two components. The first component is the difference between the bidder's net defaulted bid and the subsequent net winning bid, or the difference between the bidder's gross defaulted bid and the subsequent gross winning bid, whichever is less, the next time a license or construction permit for the spectrum is won, should the subsequent winning bid be less than the defaulted bid.¹⁰ The second component of the default payment is an additional payment, which, pursuant to the rule in effect at the time of Auction 62, is equal to three percent (3%) of the defaulter's bid, or the subsequent winning bid, whichever is less.¹¹ In the event that the subsequent winning bid is greater than or equal to the defaulted bid, the total default payment is equal to three percent (3%) of the defaulted bid.¹²

As shown in Attachment A, in accordance with section 1.2104(g)(2) of the Commission's rules, we have completed the final default payment calculation and, after applying the monies Kankakee has on deposit, Kankakee owes an outstanding balance of \$89,200.00. This debt to the United States is payable in full and without further demand within 30 days of the date of this Order in accordance with the Notice Information provided below and Payment Instructions at Attachment B.

Important Notice Information

The following provides notification of procedures and information required by the Debt Collection Improvement Act of 1996 ("DCIA").¹³ The outstanding balance shown in Attachment A is a debt Kankakee owes to the United States. It is payable in full and without further demand, and payment must be received no later than the payment due date, which is 30 days from the date of this Order ("Due Date").¹⁴ Any portion of the debt unpaid at the end of the Due Date will be considered delinquent and administrative charges (incurred for processing and handling delinquent debts),¹⁵ interest,¹⁶ and penalties¹⁷ will accrue beginning from that date. Interest accrues at a minimum annual rate established annually by the United States Treasury in accordance with 31 U.S.C. § 3717.¹⁸ However, the Commission will waive payment of the accrued interest, if the full amount of the debt is paid within 30

⁷ 47 C.F.R. § 1.2104(g)(2).

⁸ *Id.*

⁹ 47 C.F.R. §§ 1.2104(g)(2), 1.2109(b).

¹⁰ 47 C.F.R. § 1.2104(g)(2)(i).

¹¹ 47 C.F.R. § 1.2104(g)(2) (2005).

¹² *Id.*

¹³ Public Law 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996) *codified in relevant part at* 31 U.S.C. §§ 3716 (administrative offset) and 3717 (interest and penalty on claims); *see also* 47 C.F.R. §§ 1.1911, 1.1912, and 1.1940.

¹⁴ As noted at Attachment B, if the 30th day falls on a non-business day, payment must be received on the next business day.

¹⁵ 31 U.S.C. § 3717(e)(1); 47 C.F.R. § 1.1940(c).

¹⁶ 31 U.S.C. § 3717(b); 47 C.F.R. § 1.1940(b).

¹⁷ 31 U.S.C. § 3717(e); 47 C.F.R. § 1.1940(d).

¹⁸ 47 C.F.R. § 1.1940(b).

days of the Due Date.¹⁹ A penalty of six percent (6%) accrues on any portion of the debt that remains unpaid for more than 90 days from the Due Date.²⁰ In addition to these charges, the Commission may initiate administrative offset,²¹ and it may refer the delinquent debt to the United States Treasury or the Department of Justice (“DOJ”) for further collection action.²² The United States Treasury will impose an additional administrative collection charge,²³ and it may also commence administrative offset.²⁴ An additional surcharge may be imposed if the DOJ initiates judicial action to recover judgment.²⁵ Furthermore, any portion of the debt that is unpaid after the Due Date specified in this order is a delinquent debt, which will trigger application of the Commission’s red light procedures at 47 C.F.R. § 1.1910.

Ordering Clauses

Accordingly, IT IS ORDERED that, pursuant to sections 4(i) and 309 of the Communications Act of 1934 as amended, 47 U.S.C. §§ 154(i), 309, and section 1.2104(g)(2) of the Commission’s rules, 47 C.F.R. § 1.2104(g)(2), Kankakee Valley Broadcasting Company, Inc. is ASSESSED a final default payment obligation as computed in Attachment A.

IT IS FURTHER ORDERED that, pursuant to sections 1.2104 and 1.2106 of the Commission’s rules, 47 C.F.R. §§ 1.2104 and 1.2106, Kankakee Valley Broadcasting Company, Inc.’s interim payment or funds on deposit will be applied towards the final default payment.

IT IS FURTHER ORDERED that Kankakee Valley Broadcasting Company, Inc.’s debt of \$89,200.00 is payable in full and without further demand, and it must be paid within 30 days of the date of this Order (the Due Date), in accordance with the payment instructions in Attachment B, and any portion of the debt unpaid after the Due Date is delinquent, and under 31 U.S.C. § 3717, administrative charges, interest, and penalties will accrue.

¹⁹ 31 U.S.C. § 3717(d); 47 C.F.R. § 1.1940(g).

²⁰ 31 U.S.C. § 3717(e)(2); 47 C.F.R. § 1.1940(d).

²¹ 47 C.F.R. § 1.1912. Under this provision, the Commission may refer the debt to the United States Treasury for centralized administrative offset whereby, subject to certain exceptions, money otherwise payable to the debtor by the United States government may be used to satisfy the debt. In addition, “unless otherwise prohibited by law,” the Commission may conduct non-centralized, ad hoc case-by-case offsets when centralized offset is unavailable or inappropriate. 47 C.F.R. § 1.1912(c).

²² 31 U.S.C. §§ 3711(g), 3716; 28 U.S.C. § 3001, *et seq.*; 47 C.F.R. § 1.1912. Transfer may be made without further notice at any time after the Due Date specified.

²³ 31 U.S.C. § 3717(e); 31 C.F.R. § 285.12(j).

²⁴ 31 U.S.C. § 3716; 47 C.F.R. § 1.1912(b) (mandatory centralized administrative offset).

²⁵ 28 U.S.C. § 3011.

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IT IS FURTHER ORDERED that this Order and a FCC Remittance Advice Form (FCC Form 159, Version 2/03) shall be sent to Kankakee Valley Broadcasting Company, Inc. and its representatives by certified mail, return receipt requested. This action is taken pursuant to authority delegated by section 0.331 of the Commission's rules, 47 C.F.R. § 0.331.

Sincerely,

Margaret W. Wiener
Chief, Auctions and Spectrum Access Division
Wireless Telecommunications Bureau

Attachments

cc (w/Att): Richard J. Hayes, Jr.
3 Stetson Avenue
Camden, ME 04843

ATTACHMENT A

Multi-Auction Default Payment Report

Construction Permit Number Frequency Block	Defaulted Gross Bid Auction 62	Defaulted Net Bid Auction 62	Re-auction Gross Bid Auction 93	Re-auction Net Bid Auction 93	3% Payment	Lower Difference Payment	Final Payment
FM389-A (Culver, IN)	\$354,000.00	\$354,000.00	\$200,000.00	\$200,000.00	\$6,000.00	\$154,000.00	\$160,000.00

Total Final Default Payment Due	\$160,000.00
Less Interim Default Payment and Amount on Deposit	\$70,800.00
Outstanding Balance Due on Final Default Payment	\$89,200.00

ATTACHMENT B

Payment Instructions

The following information is being provided to assist you in making your payment.

All payments must be made in U.S. currency in the form of a wire transfer. No personal checks, cashier's checks or other forms of payment will be accepted. Wire transfer payments must be received by 6:00 PM Eastern Time, no later than thirty days from the date of this ORDER; however, if the 30th day falls on a non-business day, e.g., Saturday, Sunday or holiday, it is due the next business day. Applicants must allow sufficient time for the wire transfer to be initiated and for the transmission to be completed prior to the deadline. To submit funds by wire, applicants will need the following information to properly effect the transmittal:

ABA Routing Number: **021030004**

Receiving Bank: **TREAS NYC**

33 Liberty Street
New York, NY 10045

ACCOUNT NAME: **FCC**

ACCOUNT NUMBER: **27000001**

OBI Field: (Skip one space between each information item) "AUCTIONPAY"

APPLICANT FRN: (same as FCC Form 159, block 21)

PAYMENT TYPE CODE: (same as FCC Form 159, block 24A: "**APEN**")

FCC CODE 1: (same as FCC Form 159, Block 28A: ("62"))

PAYOR NAME: (same as FCC Form 159, Block 2)

LOCKBOX NO.: **#979088**

Please fax a completed remittance advice (Form 159) to U.S. Bank, St. Louis, Missouri at (314) 418-4232 **at least one hour before initiating the wire transfer** (but on the same business day).

For questions regarding the submission of payment, and the FCC Form 159, contact Gail Glasser, Office of the Managing Director, Financial Operations, Auctions Accounting Group, at (202) 418-0578.